

14 July 2022

Dear President Von der Leyen,

### **Uber, Neelie Kroes, and the European Commission**

The Uber Files, published in recent days by [The Guardian](#), [Le Monde](#), [Tagesschau](#), and outlets around the world, have been shocking. They reveal a corporation which “broke the law, duped police and regulators, and secretly lobbied governments across the world”, and a number of European politicians have been implicated.

Specifically the files raise significant questions about the European Commission’s handling of revolving door and ethics issues; access to documents; and lobby transparency. Below we set out some questions and concerns.

#### **Revolving doors and ethics**

Since 2010, Corporate Europe Observatory and the Alliance for Lobbying Transparency and Ethics Regulation have repeatedly written to the Commission regarding our concerns about loopholes in the revolving door rules. In early 2014 we [wrote](#) to President Barroso warning that the revolving door rules in place were not robust enough and that scandals would emerge unless urgent improvements were made. Our concerns were [dismissed](#). We were so concerned that we [wrote](#) to all Barroso II Commissioners personally to remind them of the existing rules and to urge them to abide by higher ethical standards.

In the light of this, the revelations about then Commissioner Neelie Kroes and Uber are very significant but do not come as a great surprise to us.

- Internal Uber emails [reveal](#) that “We are getting Neelie Kroes to join our advisory board (mega confi[dential]).” This was written in September 2014 when Kroes was still Digital Commissioner.
- In 2015, after having left the Commission, Ms Kroes contacted Dutch Government members on several occasions following police raids on Uber as part of a legal investigation. Ms Kroes also contacted the office of Prime Minister Rutte to pass messages on. In January 2016 Mr Rutte, Ms Kroes, and the controversial Chief Executive of Uber at the time, Travis Kalanick, had a meeting.
- [The Guardian quotes](#) ongoing Uber efforts in 2015 to keep its relationship with Ms Kroes secret: “Her name should never figure on a document whether internal or

external. We have a specific relationship with Neelie Kroes right now, which is sensitive and highly confidential.”

- *The Guardian* [reports](#) that Kroes offered to approach several EU Commissioners including Violeta Bulc (transport) in 2015 and Frans Timmermans (Vice-President) in 2016. Timmermans did not meet with Uber; Bulc did [meet](#) with Uber in May 2016 and it is not clear what role, if any, Ms Kroes played in setting this up.
- The [Uber Files](#) indicate that Ms Kroes was applying to the Commission for permission to work for Uber in August 2015. In November 2015, Ms Kroes apparently received an opinion from the Commission’s Ad-hoc ethical committee that she should not work for Uber before the end of her 18 month notification period. A follow-up approach to the then-Commission President Jean-Claude Juncker by Kroes for permission was also rejected.

As a result of this, we consider that the Commission should implement the following:

- **A full and detailed investigation into Ms Kroes’ activities in the light of the then Code of Conduct and her wider Treaty obligations to behave with “integrity and discretion”. It is not enough to only write to Ms Kroes. We urge you to also contact [The Guardian](#), the [International Consortium of Investigative Journalists](#), and [Le Monde](#) so as to access the specific documents that relate to these issues.**
- **There should also be a full investigation into how the Commission handled these matters in the 2014-16 period.**
- **Immediate and permanent removal of the Commission access pass of Ms Kroes.**
- **The application of financial penalties upon Ms Kroes for any and all breaches of the Code and Treaty.**
- **A full review of Commissioner revolving doors rules. We recognise that, following another revolving door scandal (President Barroso’s move to Goldman Sachs) that the rules have since been tightened a little. But major loopholes remain, including: a too-short notification and lobby ban period; a lobby ban that is too restricted to the Commission and which should instead explicitly cover all lobbying; and an absence of explicit rules regarding new post-Commission job offers received while in office. It is imperative that such changes are put in place before your own College leaves office.**

## **Access to documents**

The Uber Files also reveal significant failings in the way in which access to documents requests were handled when Corporate Europe Observatory (CEO) was investigating Ms Kroes’ relationship to Uber.

In May 2016 CEO [asked](#) for all documents relating to “copies of applications by former Commissioner Neelie Kroes which seeks Commission authorisation for new professional activities with Uber”. The Commission said that “no documents were found”, limiting itself to the public announcement that Kroes had joined Uber in May 2016. No reference was made to the previous request for authorisation made by Kroes, to join Uber, even though it was relevant and in scope.

## **Why did the Commission not release information regarding her 2015 application to join Uber?**

In September 2016 CEO [asked](#) for “all exchanges between then Commissioner Kroes, her office and her Cabinet, with the companies Uber ... from 1 January 2012 to 31 October 2014 ... any emails, correspondence, meeting notes or telephone call notes.” CEO was provided with only one document, a minute for a meeting between Uber and a member of Kroes’ Cabinet. Yet [Le Monde](#) reports that numerous meetings and correspondence occurred between Uber’s lobbyists and Ms Kroes’ Cabinet from November 2013. A “brief” meeting apparently also took place with Ms Kroes herself in July 2014. *Le Monde* says “the meetings took place within an official framework, and using the official email addresses of Kroes’ advisers”.

### **Why did the Commission not release documents regarding all contacts between Ms Kroes, her team, and Uber as requested?**

We note that the Uber Files have also [revealed](#) that the company was worried about “the risk that an NGO, such as the Corporate Europe Observatory” would request access to documents in the “Kroes file” from Brussels with the aim of publishing them. This illustrates the importance of civil society’s watch-dog role and how vital it is that the responses we receive from the Commission are reliable and complete. Citizens must have 100 per cent confidence in the Commission’s responses and there is a significant risk that failings will undermine confidence in the freedom of information system.

**We ask for a full investigation by the Secretariat-General into these two cases and that measures are put in place so that the Commission’s access to documents system guarantees citizens’ access to *all* documents requested, when within scope of regulation 1049.**

### **Uber**

The code of conduct of the EU lobby transparency register currently requires that registrants:

“(g) respect, and avoid obstructing the implementation and application of, the relevant publicly available rules, codes and guidelines established by the Union institutions;

(h) not induce Members of the European Parliament, members of the Commission or staff of the Union institutions to contravene the rules and standards of behaviour applicable to them;”

It appears that Uber has significantly breached the rules of the EU lobby transparency register and there must surely be consequences from this. Uber remains an active lobbyist now, including on the current ‘platform workers’ rights’ proposal. The opportunity to improve workers’ rights must not be jeopardised by a corporate lobby with a history of using such disreputable lobby tactics. **We urge you to suspend Uber’s registration from the register in recognition of the revelations in the Uber Files.**

We look forward to hearing from you as soon as possible.

Yours sincerely,

Corporate Europe Observatory and the ALTER-EU Steering Committee

Please send all responses to:

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